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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Armenia, Austria, Belgium, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Guatemala, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Nigeria, Norway, Panama, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and Uruguay: draft resolution

Extrajudicial, summary or arbitrary executions

The General Assembly,

Recalling the Universal Declaration of Human Rights,[1] which guarantees the right to life, liberty and security of person, the relevant provisions of the International Covenant on Civil and Political Rights[2] and other relevant human rights conventions,

Having regard to the legal framework of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions,

Welcoming the universal ratification of the Geneva Conventions of 1949,[3] which alongside human rights law provide an important framework of accountability in relation to extrajudicial, summary or arbitrary executions during armed conflict,

Mindful of all its resolutions on the subject of extrajudicial, summary or arbitrary executions and the resolutions of the Commission on Human Rights on the subject,

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

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Dismayed that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions,

Acknowledging that international human rights law and international humanitarian law are complementary and not mutually exclusive, and noting with deep concern the growing number of civilians and persons *hors de combat* killed in situations of armed conflict and internal strife,

Acknowledging also that extrajudicial, summary or arbitrary executions can amount to genocide, crimes against humanity or war crimes, as defined under the Rome Statute of the International Criminal Court,[4]

Recalling the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, as agreed in the 2005 World Summit Outcome,[5]

Deploring the frequent occurrence of death in custody in all regions of the world, and affirming the obligation of States to investigate and respond to such deaths and to exercise due diligence in preventing abuse of persons deprived of their liberty,

Convinced of the need for effective action to prevent, combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent a flagrant violation of the right to life,

1. *Strongly condemns once again* all the extrajudicial, summary or arbitrary executions that continue to occur throughout the world;

2. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to prevent, combat and eliminate the phenomenon in all its forms;

3. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families, and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of such executions, as stated in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions;[6]

4. *Calls upon* all States in which the death penalty has not been abolished to comply with their obligations under relevant provisions of international human rights instruments, including in particular articles 6, 7 and 14 of the International Covenant on Civil and Political Rights[7] and articles 37 and 40 of the Convention on the Rights of the Child,[7] bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 and 1989/64;

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[4] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

[5] See resolution 60/1, para. 138.

[6] Economic and Social Council resolution 1989/65, annex.

[7] United Nations, *Treaty Series*, vol. 1577, No. 27531.

5. *Urges* all States:

(a) To take all necessary and possible measures, in conformity with international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during public demonstrations, internal and communal violence, civil unrest, public emergencies or armed conflicts, and to ensure that the police, law enforcement agents, armed forces and other agents acting on behalf of or with the consent or acquiescence of the State, act with restraint and in conformity with international humanitarian law and international human rights law, including the principles of proportionality and necessity, and in this regard to ensure that police and law enforcement officials act in accordance with the Code of Conduct for Law Enforcement Officials[8] and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;[9]

(b) To ensure the effective protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons, such as racially motivated violence leading to the death of the victim, killings of members of national, ethnic, religious or linguistic minorities, of refugees, internally displaced persons, migrants, street children or members of indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation, as well as all other cases where a person's right to life has been violated, and to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel;

6. *Also urges* all States to ensure that persons deprived of their liberty are treated humanely and with full respect for their human rights and to ensure that their treatment, including judicial guarantees, and conditions conform to the Standard Minimum Rules for the Treatment of Prisoners[10] and, where applicable, to the Geneva Conventions of 12 August 1949[11] and the Additional Protocols thereto of 8 June 1977[11] in relation to all persons detained in armed conflict, as well as to other pertinent international instruments;

7. *Acknowledges* the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions and the fact that one hundred and two States have already ratified or acceded to and a further thirty-seven have signed the Rome Statute of the Court,[4] and calls upon all those States that have not ratified or acceded to the Rome Statute to consider doing so;

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[8] Resolution 34/169, annex.

[9] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.

[10] See *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1).

[11] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

8. *Encourages* Governments and intergovernmental and non-governmental organizations to organize training programmes and to support projects with a view to training or educating military forces, law enforcement officers and government officials in human rights and humanitarian law issues connected with their work and to include a gender and child rights perspective in such training, and appeals to the international community and requests the Office of the United Nations High Commissioner for Human Rights to support endeavours to that end;

9. *Welcomes* the interim report of the Special Rapporteur to the General Assembly;[12]

10. *Commends* the important role that the Special Rapporteur plays towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his reports;

11. *Acknowledges* the important role of the Special Rapporteur as an early warning mechanism by identifying cases where extrajudicial, summary and arbitrary executions could amount to genocide and crimes against humanity or war crimes, and urges him to continue to draw the attention of the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide, to situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern or in which early action might prevent further deterioration;

12. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue efforts in that regard;

13. *Strongly urges* all States to cooperate with the Special Rapporteur so that his mandate can be carried out effectively, including by issuing standing invitations, by honouring such invitations in practice through favourable and rapid responses to requests for visits, for which standard terms of reference apply, and by responding in a timely manner to communications and other requests transmitted to them by the Special Rapporteur;

14. *Expresses its appreciation* to those States that have received the Special Rapporteur, and asks them to examine carefully the recommendations made by the Special Rapporteur, invites them to report to him on the actions taken on those recommendations, and requests other States to cooperate in a similar way;

15. *Expresses its deep concern* that a number of States mentioned in the report of the Special Rapporteur, including several members of the Human Rights Council, have not responded to calls for invitations, and reminds all States that the on-site country visits are an indispensable component of the mandate of the Special Rapporteur;

16. *Again requests* the Secretary-General to continue to use his best endeavours in cases where the minimum standards of legal safeguards provided for

[12] See A/61/311.

in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

17. *Requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him to carry out his mandate effectively, including through country visits;

18. *Also requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious violations of human rights, such as extrajudicial, summary or arbitrary executions;

19. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixty-second session on the situation worldwide in regard to extrajudicial, summary or arbitrary executions and his recommendations for more effective action to combat this phenomenon.